

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-10300-RWZ

ROSARIO GUZZI

v.

MICHAEL THOMPSON

ORDER

June 3, 2005

ZOBEL, D. J.

Rosario Guzzi, in his original and supplemental petition for a writ of habeas corpus, claims that his several convictions for violating a restraining order and intimidating a witness are infected with constitutional error in that the indictments on which he was convicted did not adequately describe the offenses charged. Several motions are pending.

1. Petitioner's motion for the appointment of counsel. (#3 on the court's docket)

The motion is denied.

2. Petitioner's motion for an evidentiary hearing. (#8)

The motion is denied. Since the issues presented in a habeas proceeding usually derive from the legal sufficiency of the indictment or the conduct of the trial, they are normally decided on the basis of the record. Moreover, petitioner's claim in this case, that the indictment was defective, raises a purely legal question rendering unnecessary the further development of the underlying facts.

3. Respondent's motion to dismiss. (#15)

Petitioner has not yet filed a formal opposition, although he had earlier sent a letter to the court in which he explains his position as to the timeliness of the petition and in which he seeks a decision on his pending motions. His motions having now been decided, if petitioner wishes to submit an opposition to respondent's motion, he shall do so on or before July 1, 2005.

4. Petitioner's letter dated April 18, 2005 and filed twice, on May 10 and May 25, 2005.

Petitioner seeks the assistance of the court's law clerks as to several timing and administrative matters.

The question concerning the signature of the judge on orders, or the lack thereof is easily answered. The "/s/" does not signify a decision by law clerks rather than the judge. It is the mechanism for indicating the electronic signature of the judge.

The timing of pleadings has been resolved. The court never entered a stay - - it granted respondent an extension for filing its responsive pleading. It has filed such, the motion to dismiss, within the time allowed. Petitioner has now been given until July 1 to oppose.

DATE

/s/ Rya W. Zobel

RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE